

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In Re

Case No. 20-10203

MICHAEL S. TOMASZEWSKI

Chapter 7

Debtor

**STIPULATION AND ORDER CONCERNING NON-DISCHARGEABLE DEBT
OF MARTIN WARD, SANDRA WARD, RICKY BEZON, ELAINE BEZON,
PATRICIA A. ABRAMS, ANTHONY BARNIAK, ELAINE BARNIAK,
JAMES FAMIGLIETTI, AND RAYMOND FOLLACO**

WHEREAS, Debtor Michael S. Tomaszewski ("Debtor") filed a voluntary petition pursuant to Title 11 U.S.C., seeking Chapter 11 Bankruptcy Relief on February 5, 2020.

WHEREAS, an order was entered converting the case to a Chapter 7 case on March 16, 2021.

WHEREAS, the Debtor owned, operated and served as the funeral director of Michael S. Tomaszewski Funeral and Cremation Chapel, LLC located in Batavia, New York. The Debtor was licensed and registered under New York law. The funeral home is no longer operating.

WHEREAS, under Section 453 of New York's General Business Law, a funeral home and a funeral director accepting a pre-need deposit is required to place the deposit into a segregated interest-bearing account bearing the name of the depositor client.

WHEREAS, the funeral home and funeral director (in this case the Debtor) was required to provide notice of the establishment of that account and periodic notice of the interest earned on the same to the depositor or depositors whose pre-need deposits were accepted.

WHEREAS, claimant Martin Ward filed a proof of claim for a pre-needs deposit in the amount of \$1,950.00 (proof of claim #20).

WHEREAS, claimant Sandra Ward filed a proof of claim for a pre-needs deposit in the amount of \$1,950.00 (proof of claim #21).

WHEREAS, claimant Ricky Bezon filed a proof of claim for a pre-needs deposit in the amount of \$4,400.00 (proof of claim #12).

WHEREAS, claimant Elaine Bezon filed a proof of claim for a pre-needs deposit in the amount of \$4,400.00 (proof of claim #11).

WHEREAS, claimant Patricia A. Abrams filed a proof of claim for a pre-needs deposit in the amount of \$7,063.62 (proof of claim #15).

WHEREAS, claimant Anthony Barniak filed a proof of claim for a pre-needs deposit in the amount of \$11,000.00 (proof of claim #10).

WHEREAS, claimant Elaine Barniak filed a proof of claim for a pre-needs deposit in the amount of \$11,000.00 (proof of claim #9).

WHEREAS, claimant James Famiglietti filed a proof of claim for a pre-needs deposit in the amount of \$2,000.00 (proof of claim #27).

WHEREAS, claimant Raymond Follaco, through his power of attorney, Paula Wade, filed a proof of claim for a pre-needs deposit in the amount of \$4,000.00 (proof of claim #16).

WHEREAS, the first \$3,025.00 of each of the respective unrefunded consumer deposit claims is entitled to priority status under Section 507(a)(7) of the Bankruptcy Code.

WHEREAS, each of the claimants above asserts that the debt owed to each of them is non-dischargeable under Section 523(a)(4) of the Bankruptcy Code.

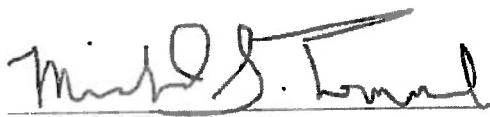
WHEREAS, each of the claimants above asserts that the debt owed to each of them is non-dischargeable under section 523(a)(2) of the Bankruptcy Code.

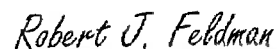
WHEREAS, each of the claimants above asserts that the debt owed to each of them is non-dischargeable under section 523(a)(6) of the Bankruptcy Code.

WHEREAS, the Debtor is subject to a pending criminal proceeding.


NOW, THEREFORE, Michael S. Tomaszewski and Gross Shuman P.C. on behalf of each claimant herein, by affixing their signatures to this Stipulation and Order, agrees that the Court may enter an Order directing that the indebtedness owed to each claimant is non-dischargeable in this matter pursuant to sections 523(a)(2), 523(a)(4) and 523(a)(6) of the Bankruptcy Code.

Dated: April 20, 2021


Michael S. Tomaszewski


Robert J. Feldman

Robert J. Feldman, Esq.
Gross Shuman P.C. on behalf of
Claimants Martin Ward, Sandra Ward, Ricky
Bezon, Elaine Bezon, Patricia A. Abrams,
Anthony Barniak, Elaine Barniak, James
Famiglietti and Raymond Follaco, through his
power of attorney, Paula Wade


David Ealy, Counsel to the Debtor

BASED UPON THE STIPULATION ABOVE, IT IS **SO ORDERED**,

1. That the debt owed to each of the claimants identified herein is non-dischargeable pursuant to 11 U.S.C. §§ 523(a)(2), 523(a)(4) and 523(a)(6);
2. That the indebtedness of \$1,950.00 owed to claimant Martin Ward is a pre-petition non-dischargeable debt in the amount of \$1,950.00;
3. That the indebtedness of \$1,950.00 owed to claimant Sandra Ward is a pre-petition non-dischargeable debt in the amount of \$1,950.00;
4. That the indebtedness of \$4,400.00 owed to claimant Ricky Bezon is a pre-petition non-dischargeable debt in the amount of \$4,400.00;
5. That the indebtedness of \$4,400.00 owed to claimant Elaine Bezon is a pre-petition non-dischargeable debt in the amount of \$4,400.00;
6. That the indebtedness of \$7,063.62 owed to claimant Patricia A. Abrams is a pre-petition non-dischargeable debt in the amount of \$7,063.62;
7. That the indebtedness of \$11,000.00 owed to claimant Anthony Barniak is a pre-petition non-dischargeable debt in the amount of \$11,000.00;
8. That the indebtedness of \$11,000.00 owed to claimant Elaine Barniak is a pre-petition non-dischargeable debt in the amount of \$11,000.00;
9. That the indebtedness of \$2,000.00 owed to claimant James Famiglietti is a pre-petition non-dischargeable debt in the amount of \$2,000.00; and
10. That the indebtedness of \$4,000.00 owed to claimant Raymond Follaco, through his power of attorney, Paula Wade, is a pre-petition non-dischargeable debt in the amount of \$4,000.00.

Dated: April 22, 2021

Carl L. Bucki
Hon. Carl L. Bucki
United States Bankruptcy Judge

Doe #865845.1

